

KAUA'I PLANNING COMMISSION
REGULAR MEETING
January 12, 2016

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Anderson at 9:06 a.m., at the Līhu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Chair Angela Anderson
Vice Chair Sean Mahoney
Mr. Louis Abrams
Mr. Wayne Katayama
Mr. Kimo Keawe
Mr. Roy Ho

The following staff members were present: Planning Department – Michael Dahilig, Leslie Takasaki, Kaaina Hull, Jody Galinato; Deputy County Attorney Jodi Higuchi-Sayegusa, Office of Boards and Commissions – Administrator Jay Furfaro, Commission Support Clerk Darcie Agaran

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Anderson called the meeting to order at 9:06 a.m.

ROLL CALL

Planning Director Michael Dahilig: Commissioner Abrams?

Mr. Abrams: Here.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Here.

Mr. Dahilig: Commissioner Ho?

Mr. Ho: Here.

Mr. Dahilig: Commissioner Mahoney?

Mr. Mahoney: Here.

Mr. Dahilig: Commissioner Katayama?

Mr. Katayama: Here.

Mr. Dahilig: Chair pro tem Anderson?

Chair Anderson: Here.

Mr. Dahilig: Madam Chair, we have six (6) members present.

Chair Anderson: Thank you.

SELECTION OF CHAIRPERSON AND VICE CHAIRPERSON
APPOINTMENT OF SUBDIVISION COMMITTEE CHAIRPERSON, VICE
CHAIRPERSON AND COMMITTEE MEMBERS

Mr. Dahilig: We are on the Selection of Chairperson and Vice Chairperson, and Appointment of Subdivision Committee Chairperson, Vice Chairperson, and Committee Members of the new term.

Chair Anderson: Nominations are now in order for the position of Planning Commission Chair. Nominations need not be seconded. Are there any nominations?

Mr. Katayama: Madam Chair, I'd like to make a nomination for the Chair.

Chair Anderson: Yes.

Mr. Katayama: Sean Mahoney.

Chair Anderson: Okay. Are there any further nominations? If not, may I have a motion to close the nominations?

Mr. Abrams: Move to close the nominations.

Mr. Katayama: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any discussion? Okay. Any opposed? (None) Okay, motion carries 6:0.

The nominations are now closed. Sean Mahoney has been nominated to fill the position of the Planning Commission Chair. Are there any requests for a secret ballot vote? If not, all those in favor of Sean Mahoney as the next Chair of the Planning Commission please raise your hand. (Laughter in background) May the record reflect that six (6) hands were raised. A majority of the members have voted in favor of Sean Mahoney, and he is duly elected to serve as the Planning Commission Chair. Congratulations. (Applause)

With that, I will step down and leave the remainder of the agenda for your leadership.

Chair Mahoney: Thank you. Before I continue with the next order of business, I'd like to thank Chair Anderson for her leadership. It was exemplary and I hope I can live up to a fraction of how well she did. Thank you.

Okay, Election of Vice Chair. Nominations are now in order for the position of Planning Commission Vice Chair. Nominations need not be seconded. Are there any nominations?

Mr. Katayama: Chair Mahoney, I'd like to make a nomination. I would like to nominate Louis Abrams.

Chair Mahoney: Okay. Are there any other further nominations? If not, may I have a motion to close the nominations, please?

Mr. Keawe: So moved.

Mr. Katayama: Second.

Chair Mahoney: All in favor say aye. (Unanimous voice vote) Motion carries 6:0. Nominations are now closed.

Louis Abrams has been nominated to fill the position of Planning Commission Vice Chair. Are there any requests for a secret ballot? If not, all those in favor of Commissioner Louis Abrams please raise your right hand. A majority of...unanimity of members have voted in favor of Commissioner Abrams, and is duly elected to serve as Planning Commission Vice Chair. Thank you. (Applause)

As first order of business from the Chair, I would like to have Louis Abrams appointed as Chair of the Subdivision Committee. Do you accept?

Mr. Abrams: Yes.

Chair Mahoney: Thank you. Kimo Keawe as Vice Chair. Do you accept?

Mr. Keawe: Yes.

Chair Mahoney: And Roy Ho as member. Do you accept?

Mr. Ho: Yes.

Chair Mahoney: Thank you.

Mr. Dahilig: Thank you, Mr. Chair. Before the approval of the agenda, I did want to, if I could, take a moment to also thank former Chair and Commissioner Anderson for her service as Commission Chair. She is also going to be...this also will be her last meeting with us as she will

be endeavoring on her other works, and we just wanted to give her a lei and mahalo her for her service both as a Commissioner and the Chair of this esteemed body. (Applause)

Mr. Chair, I also did want to note that Commissioner Amy Mendonca did end her service with the Planning Commission effective December 31st, so we do thank her for her service on this Commission. At a time appropriate, we'll get everybody together for a proper mahalo, but I just wanted to put that on for the record as well.

Chair Mahoney: Okay, thank you.

APPROVAL OF THE AGENDA

Mr. Dahilig: Mr. Chair, you do have the Approval of the Agenda for this morning's Commission meeting. The Department would recommend as changes to the agenda under Item G.2.a. This is a Class IV Zoning Permit Z-IV-2016-8, Use Permit U-2016-7, and Special Permit SP-2016-3. This is regarding Tax Map Key 5-2-017:028 for the Anaina Hou Land Company LLC. There was no proper notice pursuant to Chapter 8 of the Kaua'i County Code, and therefore, we are not able to call the agency hearing. We would ask that this hearing be deferred until the second meeting of February for the agency hearing. We would also recommend moving Item J.1., this is relating to KRB LLC's petition to appeal the Planning Director's decision for denying their Class I Zoning Permit, right before Item H, which is the Consent Calendar, as well as moving the Subdivision matters relating to Item L.1. for Subdivision Committee, move that right before the Consent Calendar as well. That would be the Department's recommendation this morning. Along with...that we would take item I.1., which is the Executive Session relating to the evaluation of the Director, during the lunch period.

Chair Mahoney: Chair will entertain a motion.

Mr. Abrams: Move to...I guess I'll take it in two (2) parts. Move to defer Anaina Hou Land LLC's application to the second week [sic] of February's meeting and to approve the changes that the Planning Director suggested to our agenda.

Chair Mahoney: Do we have a second?

Mr. Abrams: That was a motion, right?

Ms. Anderson: That was my second. (Laughter in background)

Chair Mahoney: Okay. It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

Administrator Furfaro left the meeting at 9:15 a.m.

MINUTES of the meeting(s) of the Planning Commission

Meeting of November 24, 2015

Meeting of December 8, 2015

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item E. This is the minutes of the Planning Commission meetings. We do have minutes for November 24, 2015 and December 8, 2015 available for the Commission's approval this morning.

Chair Mahoney: Is there a motion for approval?

Mr. Abrams: Move to approve November 24, 2015 and December 8, 2015 minutes.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Motion carries 6:0. Thank you.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Dahilig: Thank you, Mr. Chair. There are no additional items for receipt for the record this morning other than what has already been circulated to the Commission.

HEARINGS AND PUBLIC COMMENT

Mr. Dahilig: Item G, these are for Hearings and Public Comment.

Continued Agency Hearing (NONE)

Mr. Dahilig: Item G.1. is the Continued Agency Hearing.

New Agency Hearing

Class IV Zoning Permit Z-IV-2016-8, Use Permit U-2016-7 and Special Permit SP-2016-3 to operate and construct a middle/high school facility on a parcel situated along the mauka side of Kūhiō Highway in Kīlauea, approx. 900 ft. south of the Kalihiwai Road/Kūhiō Highway intersection and further identified as 5-2723 Kūhiō Highway, Tax Map Key 5-2-017:028, and affecting a portion of a larger parcel approx. 15.17 acres in size = Anaina Hou Land LLC.

Mr. Dahilig: For purposes of Chapter 92 compliance, we do need to call Class IV Zoning Permit Z-IV-2016-8, (Use Permit) U-2016-7, and Special Permit SP-2016-3. This is relating to constructing a high school facility on a parcel on the mauka side of Kūhiō Highway in Kīlauea, approximately 900 feet south of Kalihiwai (Road)/Kūhiō Highway intersection further identified as 5-2723 Kūhiō Highway, Tax Map Key 5-2-017 parcel 28, and affecting a portion of a larger parcel 15.17 acres in size. The applicant is Anaina Hou Land LLC.

Per Commission action, this matter has been deferred for agency hearing to the second meeting in February; however, pursuant to HRS 92, we are open to any testimony and would ask the Commission to make any calls. We do not have anybody signed up to testify on this item, Mr. Chair.

Chair Mahoney: Is there any member from the public that would like to give testimony on this agenda item?

Felicia Cowden: It's one of the reasons I came...

Chair Mahoney: If you can come up to the...

Ms. Cowden: I can do it in two (2) weeks.

Chair Mahoney: Okay.

Mr. Dahilig: Second meeting in February.

Ms. Cowden: Okay, second week in February.

Chair Mahoney: Okay.

Mr. Abrams: Meeting.

Chair Mahoney: Would anyone else like to testify? Hearing none.

Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8 to allow conversion of existing restaurant facility into an office building, involving a parcel situated along Nalo Road in Po'ipū, approx. 500 ft. north of the Nalo Road/Hoone Road intersection and further identified as 2301 Nalo Road, Tax Map Key 2-8-019:042, and containing a total area of 11,250 sq. ft. = *The Parrish Collection, LLC.*

Mr. Dahilig: Alright. Thank you, Mr. Chair. Now we are on Item G.2.b. This is Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8. This is to allow a conversion of an existing restaurant facility into an office building, involving a parcel situated along Nalo Road in Po'ipū, approximately 500 feet north of the Nalo Road/Hoone Road intersection and further identified as 2301 Nalo Road, Tax Map Key 2-8-019 parcel 42, and containing a total area of 11,250 square feet. Parrish Collection, LLC is the applicant and there was a Director's Report received by the Commission Clerk on 12/29/15.

Mr. Chair, the Department would recommend opening the agency hearing at this time. Mr. Chair, I do not have anybody signed up on this particular agenda item. The Department would recommend making a final call for any testimony on this agency hearing.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item at this time?

Mr. Dahilig: Given the absence of any testimony, the Department would recommend closing the agency hearing at this time.

Chair Mahoney: Chair will entertain...

Mr. Abrams: Move to close the agency hearing.

Ms. Anderson: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Hearing closed. Motion carries 6:0.

Class IV Zoning Permit Z-IV-2016-10 to allow construction of two (2) additional fuel storage tanks on a parcel located along Waapa Road in Nāwiliwili, approx. 300 ft. south of the Kanoa Street/Nāwiliwili Road intersection and further identified as 3185 Waapa Road, Tax Map Key 3-2-004:016, and containing a total area of 1.3154 acres = *Kaua'i Petroleum Company, Ltd.*

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item G.2.c. This is Class IV Zoning Permit Z-IV-2016-10 to allow the construction of two (2) additional fuel storage tanks on a parcel located along Waapa Road in Nāwiliwili, approximately 300 feet south of the Kanoa Street/Nāwiliwili Road intersection, identified as 3185 Waapa Road, Tax Map Key 3-2-004 parcel 16, and containing a total area of 1.3154 acres. Kaua'i Petroleum Company, Ltd. is the applicant, and the Director's Report was received by the Commission on 12/29/15.

The Department would recommend opening the agency hearing at this time.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item?

Mr. Dahilig: Mr. Chair, I do not have anybody signed up to testify on this particular agenda item, and given the lack of anybody electing to testify, the Department would recommend closing the agency hearing at this time.

Chair Mahoney: Chair will entertain a motion.

Mr. Abrams: Move to close the agency hearing.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0. Hearing closed.

Continued Public Hearing

Zoning Amendment ZA-2016-1 to amend Chapter 10 of the Kaua'i County Code 1987, as amended, to allow for additional rental units to be constructed and used within the Puhi,

Līhu‘e and Hanamā‘ulu areas to help achieve housing demands identified in the Līhu‘e Development Plan = County of Kaua‘i, Planning Department.

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item G.3.a. This is Zoning Amendment ZA-2016-1 to amend Chapter 10 of the Kaua‘i County Code 1987, as amended, to allow for additional rental units to be constructed and used within the Puhi, Līhu‘e, and Hanamā‘ulu areas to help achieve housing demands identified in the Līhu‘e Development Plan. The applicant is this Department. The hearing has been continued from 11/24/15, as well as 12/08/15.

The Department would recommend opening the continued public hearing at this time.

Chair Mahoney: Is there any member of the public that would like to testify on this agenda item? Could you step up to the microphone, please? And state your name for the record.

Ms. Cowden: I’m Felicia Cowden. I would like to say that I am very much in support of any of these efforts towards creating affordable housing because it’s a dire need in our community. So I thank the Planning Commission and the Planning Department for considering it. Thank you.

Chair Mahoney: Thank you. Anyone else would like to testify on this agenda item? Seeing none.

Mr. Dahilig: Mr. Chair, given the depth of this subject matter, the Department would recommend keeping this public hearing open until the discussion does happen regarding the bill. And then if action is warranted by the Commission that the public hearing can be closed at that time.

Chair Mahoney: Okay.

GENERAL BUSINESS MATTERS

KRB LLC’s Petition to Appeal the Planning Director’s Decision and Order dated 12/7/15 Denying KRB LLC a Class I Zoning Permit; Exhibits 1-3, by Harold Bronstein, Esq.

Mr. Dahilig: Pursuant to the change of the agenda, Mr. Chair, I would like to call Item J.1. This is KRB LLC’s petition to appeal the Planning Director’s Decision and Order dated 12/07/15 denying KRB LLC a Class I Zoning Permit; Exhibits 1-3, by Harold Bronstein, Esq., 12/15/15. This has been circulated to the Commission.

Mr. Chair, as is customary with appeals of the Planning Director’s decision, the Department would make a recommendation to receive the matter and refer it over to the Hearings Officer, and if the petitioner can be called up to state for the record whether or not they concur with the recommendation to send over to the Hearings Officer.

Chair Mahoney: Okay.

Harold Bronstein: Good morning. Harold Bronstein on behalf of the petitioner, KRB LLC. We have no objection to what was recommended by the Planning Director, and hopefully we can resolve this quickly without another hearing.

Chair Mahoney: Chair will entertain a motion.

Mr. Abrams: Chair, I make a motion to refer KRB LLC's petition to appeal to a Hearings Officer. Is there any other specific wording you need?

Mr. Dahilig: That's all.

Ms. Anderson: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

Mr. Bronstein: Thank you.

Chair Mahoney: Thank you.

COMMITTEE REPORTS

Subdivision

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item L.1. This is the Subdivision Committee. The Subdivision Committee report has been circulated to the Commission.

Mr. Abrams: Mr. Chair, the Subdivision Committee meeting was held this morning. There were two (2) in attendance. We had three (3) tentative subdivision actions: (1) S-2016-9, Donna Richards, TMK: (4) 2-5-004:025; the second one was S-2016-10, Viola Atou Trust, TMK: (4) 4-5-012:003, 010; and Subdivision Application No. S-2016-11, Craig D. and Christine Hoglund, TMK: (4) 2-6-014:018. We approved them all, 2:0, for tentative subdivision approval. We then had two (2) final subdivision actions. The first, S-2015-12, Ōma'o Ranch Lands LLC, TMK: (4) 2-7-003:005, 024; and Subdivision S-2016-1, Kukui'ula Development Company, TMK: (4) 2-6-020:001-005, 022-027, 030, 032 were approved for final subdivision approval on 2:0 votes. That concludes my report.

Chair Mahoney: Thank you. Chair will entertain a motion.

Mr. Keawe: Move to approve the Subdivision Committee actions as outlined.

Chair Mahoney: Do I hear a second?

Mr. Katayama: Second.

Chair Mahoney: It's been moved and seconded. Other further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0. Thank you.

CONSENT CALENDAR

Status Reports (NONE)

Director's Report(s) for Project(s) Scheduled for Agency Hearing, January 26, 2016.

Class IV Zoning Permit Z-IV-2016-11 and Use Permit U-2016-9 to construct and operate a medical clinic facility and four (4) residential units on a parcel located in Princeville, situated along the makai side of Kūhiō Highway and approx. 250 ft. east of its intersection with Hanalei Plantation Road, further identified as Tax Map Key 5-4-024:020 and affecting a portion of a parcel containing 19.204 acres = North Shore Urgent Care Clinic, LLC.

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item H. This is the Consent Calendar. We do have no status reports and only a Director's Report to receive and set for agency hearing on January 26, 2016. This is regarding Class IV Zoning Permit Z-IV-2016-11 and Use Permit U-2016-9 at TMK 5-4-024 parcel 20. Applicant is North Shore Urgent Care Clinic, LLC. That's all for the Consent Calendar this morning, Mr. Chair.

Chair Mahoney: Chair will entertain a motion to accept the Consent Calendar.

Mr. Abrams: Move to accept the Consent Calendar.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0. Thank you.

GENERAL BUSINESS MATTERS (Continued)

In the Matter of Appeal of Determination of Incomplete Application filed September 14, 2011, Lee & Laura Unkrich & Century Trust v. Planning Department of the County of Kaua'i, Contested Case No. CC-2015-2.

Mr. Dahilig: Thank you, Mr. Chair, again. We are now...the Executive Session will be taken up during lunch, and we've taken care of Item J.1. Item J.2. This is the matter of appeal of the determination of incomplete application filed September 14, 2011. This is the Lee and Laura Unkrich & Century Trust versus the Planning Department of the County of Kaua'i, Contested Case No. CC-2015-2.

This is to receive for the record the stipulated agreement and order, as well as the withdrawal of the appeal that has been transmitted by the Hearings Officer.

I do have one (1) individual signed up to testify on this particular item, Mr. Chair.

Chair Mahoney: Could we...?

Mr. Dahilig: Mateo Cabbalero.

Chair Mahoney: Could you state your name for the record, please?

Mateo Cabbalero: Mateo Cabbalero, on behalf of Dolphin House Estates, LLC and Lawrence Devine. I'm here to testify about this item, J.2., on the agenda today. The item concerns a stipulated agreement and order between Lee Unkrich and Century Trust, and the Planning Department concerning the Trust's application for a TVR Permit. I represent, as I said, Dolphin House Estates, LLC and Lawrence Devine, who are the co-owners of the lot in which the Trust condominium unit is located. The stipulated agreement purports to settle two (2) issues. The first one is that the condominium owners, meaning my clients...the other condominium owners, my clients, have consented to the Trust TVR application as required by the County ordinances. The second thing is that the Trust agreed to pay a fine of \$5,000 to settle allegations that it has operated a TVR without a permit. We have submitted a letter to the Planning Department and the Planning Commission objecting to the agreement. I apologize. We left out an attachment to the letter, but I have twelve (12) copies of the letter, here, that I would like to submit to the Commission. I'm going to quickly summarize the letter...or objections. So there are three (3) primary reasons for which we object to the stipulated agreement. The first one is that my clients have not consented to the TVR application, and the language in the condominium declaration, in which the agreement relies, doesn't provide such consent. The second one is that even assuming the condominium declaration provides some form of consent, it is limited to allowed uses by law, and here, the TVR use is not allowed by law because this is agricultural land and therefore, in agricultural land, TVRs are not allowed, generally. The third reason is that the agreement violates my clients' due process rights as it purports to settle my clients' consent without a hearing or an opportunity to be heard. So for these reasons and other reasons that are laid out in the letter, my clients object to both the stipulated agreement and the TVR application. We would ask the Commission to not take any action on the agreement, and allow my client an opportunity to...

Mr. Dahilig: Three (3) minutes, Mr. Chair.

Mr. Cabbalero: To intervene in this matter.

Chair Mahoney: Could you wrap up your testimony, please?

Mr. Cabbalero: That's it.

Chair Mahoney: Thank you. Anyone else in the public care to testify? Please state your name for the record. Thank you.

Ms. Cowden: My name is Felicia Cowden. I object to this particular temporary [sic] vacation rental. This is in a Conservation District. I live less than a mile from this. I'm very familiar

with this whole property from the time that it was purchased by Benji Garfinkle. This was the main access to the beach from Kīlauea for ordinary citizens. It has centuries or more of access as fisherman rights. A lot happened that had kind of an egregious process of blocking the community off from the beach. And now, like I look at the thing for...it's called Hale Ho'omalū Home, its \$1,500 a night, and when it is in conflict with the neighbors that are right there, what this is allowing is exploitation of private access to the beach for upping the value of a temporary [sic] vacation rental. So it's more than just having a TVR on Ag land, which, personally, I don't choke on that so much, but when this has really hurt the community as profoundly as it has, and then they are able to get a penalty that's worth a three (3) night's stay, that's all that penalty is worth. Maybe we need to really relook at the laws of how we penalize it, but they are flagrantly vacation renting this. This makes that beach down there, you know, exclusive for the type of people who can afford that kind of money, and the owners of this, I believe they are Pixar Corporation, the head of Pixar, so why do they need that money? Why do they do this? So when we have these challenges, like along that road, Kauapea Road, we have the über rich, and I know that the County gets sued by these people, or different problems to that effect, but it's got contention with the neighbors there, it escalates the property values, and I don't believe that people should be able to exploit a property like that. And when you look at their advertisement, part of it is access to a private beach; it's not their private beach. It's not fair, and I don't like it. I think that the County needs to really be solid in holding these people accountable when they have a clear disregard for what the rules are or what is the choice of their neighbors. I know that property. It's crowded now. It used to be a big open bluff, and there's about three (3) or four (4) mansions sort of right in that same spot. They can't even get along right there. So I really hope that the County does look at it, and push it through for what the law should be, which is to not allow it there without a permit. They've been doing this without a permit.

Mr. Dahilig: Three (3) minutes, Mr. Chair.

Ms. Cowden: Thank you.

Chair Mahoney: Thank you for your testimony. Is there any other member of the audience that would like to testify on this agenda item? Seeing none.

Mr. Dahilig: Mr. Chair, again, this a transmittal from the Hearings Officer concerning this particular contested case that was before him, and this is for receiving for the record.

Chair Mahoney: So the Chair will entertain a motion to receive for the record. Does the Commission understand that? What's in order?

Deputy County Attorney Jodi Higuchi-Sayegusa: This matter was set for an appeal of the Director's decision. The parties have withdrawn their appeal on December 17th, and they entered into a stipulated agreement and order. So one (1) of the terms in the agreement was that the agreement be transmitted to the Commission. So what's before you today is (1) the stipulated agreement and order, and the withdrawal of the appeal just to receive for the record.

Ms. Anderson: In terms of process, typically the Hearings Officer will set forth a Findings of Facts and Conclusions of Law that the Commission would ultimately approve. It appears that

there's a stipulation directly with the Hearings Officer that this agreement...and in terms of the authority of the Hearings Officer, it was my understanding that when we do give that authority, it is not to make the decision, but to make recommendations for our approval.

Ms. Higuchi-Sayegusa: It was a stipulation entered by the Parties that the Hearings Officer also entered into...stipulated to, so basically it's between the Parties. They didn't get to the point of engaging in the Contested Case evidentiary portion of the hearing, and so...because the Parties came to an agreement, you know, it's something that the Hearings Officer also consented to and didn't require them to run through the evidentiary portion of the hearing.

Ms. Anderson: And with respect to the reason why it's being put before the Planning Commission, my assumption is that we would have the authority, rather than just to receive, to make changes or reject the agreement.

Ms. Higuchi-Sayegusa: Well, again, under 1-6-6, I believe, under the rules, the Parties can stipulate to any portion of the process. So that's the agreement that they came to, and simultaneously, the appellant withdrew his appeal. At this point, there's no action before this Commission other than to receive these items on the record. Just to, also, further clarify, the subsistent matter in this appeal is whether the Department would accept the application, and so the application is now going to run through the process, the Use Permit process, before this Commission. That, obviously, will come back before you folks whether to approve or not approve the Use Permit under the CZO.

Mr. Keawe: So what you're asking, Jodi, is just to receive it for the record?

Ms. Higuchi-Sayegusa: Yes. Well, receive...yeah, basically these two (2) items were just transmitted for you folks to consider sort of as a...to keep you folks abreast, and because of the agreement, one (1) of the terms required the transmittal of the agreement to you folks so that you folks are aware of what happened.

Mr. Keawe: What happens if we don't receive it?

Ms. Higuchi-Sayegusa: Then it was just brought before you for your consideration. If you folks don't receive it, then that will be noted in the record.

Mr. Keawe: Okay.

Mr. Katayama: Jodi, can I sort of ask it in a different way? Just to check my understanding of the situation. This agreement has been agreed by the Department, and therefore, there is no action by the Commission and it will proceed. So the TVR portion of it...

Ms. Higuchi-Sayegusa: The issue was whether the Department should have accepted the application for the TVR operation, but because there was an issue with whether or not there was the 75% approval, which is a Department policy that they've...oh, I'm sorry...an ordinance. I'm sorry. It is part of the CZO requirement whether to accept an application. The Parties came to

an agreement that the declaration, the CPR declaration, embodied that approval...I'm sorry, the 75% approval of all the CPR unit owners.

Mr. Katayama: And so that burden has been met?

Ms. Higuchi-Sayegusa: Well, that was...the Department and the Appellant agreed that yes, the declaration was sufficient to show the 75% approval to submit that application. So they withdrew their appeal, and so that appeal is no longer before this body; whether to decide upon that 75% issue because the Appellant withdrew that appeal based on the agreement.

Mr. Katayama: So given the testimony this morning, representing the other unit holders, did they...were they a party to this Contested Case hearing?

Ms. Higuchi-Sayegusa: No. The appeals from the Director's action are not...there's no intervention allowed.

Mr. Katayama: So is the Department waiving the 75(%)?

Mr. Dahilig: Let me...I hesitate to indulge too much into discussing this as the other party is not here to discuss the matter, but I will say this, that we have been advised by the Attorney's office is consistently as unlike in the courts where you have stipulated agreements that are finally agreed to by judges, the rules of the Planning Commission provide for a mediation opportunity for the Parties to reach mutual resolution and agree to their own terms, as long as it's within the bounds of the law. What ended up happening in this particular circumstance is that there was a dispute, as the Attorney has mentioned, concerning whether or not there was sufficient evidence to reach that threshold of 75% of fee ownership in actually being able to submit an application. What the order allows is them to come before the Planning Commission and state the case. If it is still fatal to the application, the Commission can make a finding at the time that the application is actually heard before the Planning Commission. So there is no admission that there is or is not 75%, but I do want to say that this is a chronic problem concerning when you have people taking advantage of the CPR loophole in evidencing through private agreements amongst themselves what they can and cannot do. Our department does not engage itself in enforcing private agreements between landowners in CPRs. So what you are seeing is a situation where you have landowners disagreeing as to what the CPR documents say, and wanting to have that argument under the context of a permit application versus a private action in front of a court. And so whether or not that 75% threshold has or has not been met is now being shifted in the context of being decided in the application. If the Planning Commission disagrees with the Planning Department's call that there was sufficient evidence to meet the 75% threshold, they can make a finding at that time to deny the application because it has not met that burden. But all we are doing is essentially shifting the form of that discussion through this order.

Mr. Abrams: So we have decided that particular issue, but you have decided through the stipulation to proceed with receiving the application which was denied in the first place.

Mr. Dahilig: Yeah, we did not receive the application.

Mr. Abrams: Yeah, so now we will go ahead and receive it, and then we will go through a process where they will be in front of us again, where we can consider that, and ask questions relative to the 75%, and our County code that requires that.

Mr. Dahilig: Unlike like a party appealing the decision of the Planning Director, now that it is an open permit, that permit allows for intervention by any party pursuant to the rules.

Mr. Abrams: So technically, the person who spoke has their opportunity and their due process to comment on that, and attempt to intervene, I guess, or whatever they want, at that application.

Mr. Dahilig: As long as they elect to...as long as they follow the procedures for intervention in a timely fashion, as well as the Commission consents to their being admitted as an intervener.

Mr. Katayama: May I ask the Director a question, please? In this matter where there is a cloud or opaqueness in determination of a threshold, why would you enter into a stipulated agreement and not let it be run through a Contested Case hearing where the facts will be laid out and a little more clarity added to the definition? Because right now, don't we start again on that same issue?

Mr. Dahilig: I think...and that's the...without divulging into too much of the litigation strategy concerning the Department's representation and appearance in this matter, we had concerns regarding our ability to make a case regarding this threshold. And I'll leave it at that.

Mr. Katayama: Okay, thank you.

Mr. Abrams: If there isn't any more discussion, Mr. Chair, I make a motion to approve the stipulated agreement for...to approve the stipulated...well we don't even approve it, right? We're just receiving (inaudible).

Mr. Keawe: Just receiving it.

Mr. Abrams: To receive this matter.

Chair Mahoney: Is that a motion?

Mr. Keawe: Did you make the motion?

Mr. Abrams: Yeah. I make the motion that we receive this agenda item for the record.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion on the matter? (None) All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

Petition to Appeal the Planning Director's Decision by Nadine Begley concerning Additional Dwelling Unit Recertification Application (TMK 46011056) filed 4/27/15, Contested Case No. CC-2015-09, Related to an Additional Dwelling Unit Recertification Application for

property situated in Kapa'a, Kaua'i, Hawai'i, identified by Kaua'i TMK No. (4) 4-6-011:056, and containing a total area of 2.104 acres = Nadine Begley.

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item J.3. This is the petition to appeal the Planning Director's decision by Nadine Begley concerning ADU Recertification, TMK 46011056, filed on 04/27/15, Contested Case Hearing No. CC-2015-09, relating to an additional dwelling unit recertification application for a property situated in Kapa'a, Kaua'i, Hawai'i, identified as Tax Map Key (4) 4-6-011 parcel 56, and containing a total area of 2.104 acres. The appellant was Nadine Begley, and Mr. Chair, we do have a Hearings Officer report for approval and...recommendation and approval by the Commission.

Chair Mahoney: Chair will entertain a motion for the Hearings Officer's report and recommendation.

Mr. Keawe: Move to receive or accept the Hearings Officer report and recommendations. Are we receiving it? Or are we approving it?

Ms. Higuchi-Sayegusa: So the Hearings Officer submitted the reports.

Mr. Keawe: Right.

Ms. Higuchi-Sayegusa: At this point, the Commission may, under the rules, adopt the Decision and Order with or without revisions, or if there is any portion of evidence that you wanted clarification on or...then you can send it back to the Hearings Officer to hear certain items, but at this point, it's whether to adopt the order as submitted, or with any amendments or revisions.

Mr. Keawe: Okay. So move to adopt or approve Hearings Officer report and recommendations.

Chair Mahoney: Do I hear a second?

Mr. Ho: Second that.

Chair Mahoney: Moved and seconded. Any discussion? Hearing none. All in favor? (2 ayes) Opposed? (1 aye) Could we have a roll call vote, please?

Mr. Dahilig: Mr. Chair, the motion on the floor is to approve the Hearings Officer recommendation concerning the petition filed by Nadine Begley under Contested Case Hearing No. CC-2015-09. An "aye" vote is to approve the Hearings Officer report and recommendation.

Commissioner Abrams?

Mr. Abrams: Aye, I mean, nay.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Ho?

Mr. Ho: Aye.

Mr. Dahilig: Chair Mahoney?

Chair Mahoney: Aye.

Mr. Dahilig: Commissioner Katayama? Commissioner Anderson?

Ms. Anderson: Abstain.

Mr. Dahilig: Mr. Chair, I have three (3) ayes, one (1) no, and two (2) abstentions. I believe, given the Commission rules, abstentions go to the majority of the votes, and it would appear that it is a 5:1 vote, Mr. Chair.

Chair Mahoney: Hearing the vote, the motion carries 5:1.

COMMUNICATION (For Action) (None)

Mr. Dahilig: Mr. Chair, we are now on Communications. There are none for action.

UNFINISHED BUSINESS (For Action) (None)

Mr. Dahilig: And we've taken care of Committee Reports, and we do not have any Unfinished Business for action this morning, Mr. Chair.

NEW BUSINESS

Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8 to allow conversion of existing restaurant facility into an office building, involving a parcel situated along Nalo Road in Po'ipū, approx. 500 ft. north of the Nalo Road/Hoone Road intersection and further identified as 2301 Nalo Road, Tax Map Key 2-8-019:042, and containing a total area of 11,250 sq. ft. = *The Parrish Collection, LLC.*

Mr. Dahilig: We are now on action for Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8. This is to allow conversion of an existing restaurant facility into an office building, involving a parcel situated along Nalo Road in Po'ipū, approximately 500 feet north of the Nalo Road/Hoone Road intersection and further identified as 2301 Nalo Road, Tax Map Key 2-8-019:042, and containing a total area of 11,250 square feet. The Parrish Collection is the applicant. Jody is our Planner, and she is ready to present the report on behalf of the Department, Mr. Chair.

Staff Planner Jody Galinato: Good morning, Mr. Chair and members of the Commission. And congratulations.

Chair Mahoney: Thank you.

Ms. Galinato read the Actions Required, Project Description and Use, Legal Requirements, Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

Ms. Galinato: I'll hold off on my Conclusion and Preliminary Recommendation. Thank you.

Chair Mahoney: Thank you. Is the representative for the applicant present?

Jonathan Chun: Good morning. Jonathan Chun on behalf of the applicant. Also with me is the applicant's officer, JP Parrish, and also with us is the current owner of the property, Mr. Randall Yates. They can come up if you want. They are a bit intimidated by the cameras and everything. (Laughter in background)

Good morning, Mr. Commissioner. Thank you for allowing us to present this application over here. We have reviewed the preliminary findings of the Planning Department. We don't have anything to add. We want to emphasize on this matter that the previous permit existing right now, in fact, is the restaurant permit. The restaurant permit, as I was going through the process of reviewing this project, it had a lot of initial opposition from the neighbors. Primarily at that point, back in the 80's, I believe, focused on traffic, parking, and noise. As the restaurant progressed, they were able to meet those concerns of the neighbors for traffic and parking. I believe the restaurant owners at that time reached an agreement and were able to get overflow parking through the Nihi Kai parking lot. As far as noise, I believe they kept the entertainment or the music that was being played to a minimum level, and I think they met all of the requirements of the Liquor Commission's requirement. So as you can see from the history of the property and the restaurant there, because Casa di Amici is not the only restaurant, there were restaurants before that, that it's been an ongoing, fairly good relationship with the neighbors.

What we are trying to do over here is Mr. Yates is selling the property, and Mr. Parrish is looking at purchasing it for the purpose of opening an office. The office is basically for his corporate office; there's human resources matters, the accounting. It is not a front desk operation where people will come and go, where the renters will come in for their pick up, or anything (inaudible); it is purely a corporate office. So we don't anticipate any visitors coming in there for checking in; it's not a check-in office. That will be handled by the other offices. The other office is located, I think, on Po'ipū Road? On Po'ipū Road. So what we have here is a pure office use in a building that previously had a restaurant. It is our position, and I think the Planning Department, after their review, also agreed that it is a much less intensive use than a restaurant. The parking requirement is there. We have used the parking requirement the CZO sets out for office use. The CZO requires us to have about ten (10) and a half parking spaces for office use; we've provided fourteen (14). The Planning Department, through their communications with the Department of Public Works, has requested a condition of adding bike racks to be consistent with the South Shore General Plan; that can be done. In addition, we

have...during the process, we have reviewed the plans and permits that were issued for the property previously, and we compared them with what exactly is there on-site right now. We noticed there was a discrepancy. The applicant has agreed that during this...part of this process, he will clean up some of the things that were done without a permit. So there are a lot of advantages in this application. (1) It will be consistent with the neighborhood; (2) it will be a less impact. There would be no noise, no entertainment at this point in time, so that issue is going to go away. The parking is more than is required by the CZO, and in fact, there's...we probably have other parking that we can...because there's still an agreement with the Nihi Kai about overflow parking, if there need be. And (3) there's going to be a cleanup of all the other minor matters that were found to be inconsistent with the CZO. So there's a lot of advantages as part of this application to the public and to the government in terms of making sure that its rules and regulations are followed properly.

So we're here to answer any questions that the Planning Commission might have regarding these operations. Mr. Yates is open and willing to give you information as to what was there and how it was operating. In fact, Mr. Yates is also an adjoining landowner, and probably because he lives next door, he can also testify in terms of what it was like living in the neighborhood there. And Mr. Parrish would be able to testify or give you information as to what operations will be there. Okay, so with that, we will open to answer any questions you might have.

Chair Mahoney: Is there any member of the Commission that has questions for the applicant or representative?

Mr. Ho: Will you have any exterior signage on your building? Or in the lot area?

Mr. Chun: Yes. One of the things that we need to cleanup, and that is in the plan right now, there was a...I guess a stone wall or a rock wall that had signage in front of there, that we are requesting for an SMA Minor if it will be placed in there, but the sign itself will be requested also. So yes, there will be a small sign. They will take away the Casa di Amici sign, and they will put the real estate Parrish sign. Parrish Collection, correct? Yes, Parrish Collection sign.

Mr. Ho: On the building?

Mr. Chun: On the building.

Chair Mahoney: Further questions?

Mr. Keawe: Can you tell me how...you mentioned, Mr. Chun, that his operation for receiving clients...I assume this is a rental real estate kind of situation and you have areas where guests will come and check-in...the proximity between the two? And is there any possibility that guests will end up going to this office to check-in?

Mr. Chun: I'll ask Mr. Parrish to describe his current operations.

Mr. Keawe: Yes.

JP Parrish: I have four (4) offices in Po'ipū; one (1) across the street at Nihi Kai, we also run the Po'ipū Kapili Resort, we run the Kukui'ula, which is all checked-in on-site, and then I have Waikomo Stream. So all of them are already there, and all the other...so there's no overlap as far as I see. The only people that might be coming might be owners of the properties visiting once in a while.

Mr. Keawe: Okay. Thank you.

Ms. Anderson: Mr. Chun, you had mentioned that there is a possibility to add-on a condition regarding bike racks. I just wanted to check if you would be...if your clients would be accepting of that and then what that would look like, or if you have suggestions on that.

Mr. Chun: In answer to that question, yes, we've been discussing this matter with the Planning Department. The Department of Public Works is requesting or had a comment in terms of requiring bike racks consistent with the South Shore General Plan. The client is open to doing that. As far as the design, we've gotten proposed design criteria from the Department of Public Works and we will be working with them in terms of what they would want it to look like, but yeah, we're working with the Department of Public Works in terms of what kind...I mean, there's plenty space for it, and I found out there's a lot of designs out there. So we'll be working with them as to that. I mean, the other thing that we need to work with how many bike racks they need, so those are the details that will be worked with...Department of Public Works? With that, yeah, but we already got their general design criteria.

Administrator Furfaro returned to the meeting at 10:07 a.m.

Chair Mahoney: Any further questions?

Mr. Katayama: Mr. Chair, a quick question. In the proposed use by the applicant, you said that the...it will be a less intensive use. What is the projected occupancy of the building space?

Mr. Chun: Right now, he's only...and you can ask further detail questions from Mr. Parrish, but they are anticipating, at the most, fifteen (15) employees in the office space at any given time. We don't anticipate walk-ins, we don't anticipate...it's not a check-in place. It's basically their human resources, accounting, and corporate offices there. They will be there the regular office hours, 8:00 (a.m.) to 4:30 (p.m.), as opposed to...a restaurant operation would basically, you know, starts early in the morning with the deliveries and cooking and prep, and goes all the way to late hours at night, so that will not be there at this point in time, if this permit is granted.

Mr. Katayama: So given a projected occupancy, how many parking stalls do you anticipate being utilized for a more permanent working force?

Mr. Parrish: I think, ultimately, it's going to be all of them, and the Nihi Kai across the way has offered to continue...if there is ever a need for any staff to park there, they can because that's already in existence.

Mr. Katayama: Okay, thank you.

Mr. Chun: There is already an agreement with the Nihi Kai regarding this property, which they did during the restaurant. So again, we don't anticipate having as many parking spaces at Nihi Kai as there was during the restaurant times because I was there during the restaurant...I mean, I've gone to the restaurant before and yeah, there are times when you have a lot of cars parking at the Nihi Kai parking lot for the restaurant.

Mr. Keawe left the meeting at 10:10 a.m.

Mr. Parrish: Yeah, I can add to that. That's one of the reasons why they were happy because when my staff were there, most of the owners and guests were gone during the day, but when the guests of the restaurant are there, the guests and the owners of the Nihi Kai are also coming home, so there were actually times where there was not enough parking. So they're happy because now it's not going to be an overlap.

Mr. Katayama: So in the recommendations by the Department and the permits, is there any consideration of ensuring that there is adequate parking?

Mr. Chun: And I'll might add, maybe one day some employees will be biking. (Laughter in background) That's the hope in the South Shore General Plan.

Ms. Galinato: It is in the CZO already that the Planning Director does have the authority to review...if there are any parking complaints, he has the authority to review and make recommendations to mitigate.

Mr. Ho: I have a question for Mike. Mike, does an SMA Permit transfer with the sale of the property?

Mr. Dahilig: Now that we have different legal counsel... (Laughter in background)

Ms. Higuchi-Sayegusa: I'm sorry. Could you repeat that? Does an SMA...? (Laughter in background)

Mr. Ho: Does an SMA Permit transfer with the use?

Ms. Higuchi-Sayegusa: Oh, it runs with the land. It runs with the land. The permit entitlement does run with the land.

Mr. Ho: It transfers?

Ms. Higuchi-Sayegusa: Yes, so it's an entitlement...yeah, so it does transfer to subsequent owners following whoever's owning the land.

Mr. Abrams: And that would be the past permit?

Ms. Higuchi-Sayegusa: Yes.

Mr. Abrams: Okay, so the use that changes between restaurant to office, how is that treated? And we're looking at a different application number, aren't we?

Ms. Galinato: I could answer that. We are requesting that they cancel and void out the existing SMA Use Permit, if this one does get approved.

Mr. Abrams: I see. So this application is all of those together at this point right now?

Ms. Galinato: Yes.

Mr. Chun: And that's contained in our application. The application specifically states that if the application is granted, the owner, which is Mr. Yates, has given us the authority to cancel the existing permit which allows...both SMA and Use Permit...which allows the restaurant use in the property. I might want to add though, just to inform the Commission, this is a pending sale. Mr. Parrish has a sale offer for this property contingent upon this permit. If he's not allowed to open an office in here, that sale goes away. And also, I've been informed by Mr. Yates that he has another backup offer to open a restaurant in that same property, which is going to be allowed under the existing permits. So if no action or this permit is denied, more than likely, a restaurant will continue to be operating there.

Mr. Abrams: I had some questions. Jonathan, I didn't see on the site plans...where is the septic system on this property?

Mr. Chun: I need to ask Mr. Yates or Mr. Parrish that.

Randall Yates: The septic system is right behind the restaurant. That was designed by Julie Symington and Aqua Engineers, approved by the County, approved by the State, approved by the Federal Government. I have all of that paperwork. And it's been in operation since they wanted us to do it; I think '05/'06.

Mr. Abrams: And that's some of those buildings that are behind there that some are going to be used and some were going to be removed? Is that what you are talking about there on that parcel?

Mr. Yates: It's...there's nothing over it. You can't have anything over it. Everything has to be five (5) feet away from it, so it is buried in the back, and has been totally approved and in use for some years now.

Mr. Abrams: Okay. And so the site plan...could you show me where, I guess, on the site plan that we have where that is located on the plan?

Mr. Yates: Oh, yeah, it's right here. What does that say? Anyway, that's where it is; right here, right in here.

Mr. Abrams: So where...?

Mr. Chun: If I may, Mr. Abrams...

Mr. Abrams: Yeah. Is it Exhibit I? Is that what you're looking at?

Mr. Chun: Looking at Exhibit I, on the rear, you're going to see an open space to the right.

Mr. Abrams: Okay.

Mr. Chun: And there's a circle over there, and I think it says "CO" in that circle. I believe, from talking with surveyors, that stands for "Clean Out Valve", so a clean out valve for the septic system is right in that blank space over there.

Mr. Abrams: So that's sort of like a septic tank with leach fields?

Mr. Yates: No. Actually, it has a greywater runoff that was approved.

Mr. Abrams: Okay. I'm a little confused in regards to that.

Mr. Yates: Okay. What this...

Mr. Abrams: Because this was a restaurant before, so you had grease traps, you had all that kind of stuff that would go from there, right?

Mr. Yates: Yes. And now the grease trap is...

Mr. Abrams: And that would not go to the tank, yeah, so that's out.

Mr. Yates: Well, it goes into the septic and then the way they designed it, back in those days, was we had to have the cesspool pumped. We had a high-pressure spray come in and spray the whole thing down, then it was pumped again, and then we were able to use it as the greywater runoff from the septic tank, which was designed and approved in those days. And that's how it works, and it's worked perfectly.

Ms. Galinato: Commissioner Abrams, if you look in Exhibit A on the Department of Health comments, they did state that the existing wastewater system is adequate to serve the proposed project and they have six (6) conditions for them.

Mr. Abrams: Okay. I was just curious where that was. Second thing is that on the application, on Page 8, No. 12, existing and proposed roadways and access, it calls for the property to access Nalo Road through a private roadway easement.

Mr. Chun: Yes, I see that.

Mr. Abrams: And so this property doesn't have any frontage on Nalo Road at all?

Mr. Chun: Not Nalo Road. The easement is owned by the property owner, so it was deeded as part of...it's a nonexclusive access easement over and across that portion that goes past Nalo Road. So at some point in time, Nalo Road ends, and it shows in the TMK, and then it continues on through that private easement to connect with other property owners. So my understanding, I haven't seen all of the deeds, but my understanding of all the other property owners further down...

Mr. Keawe returned to the meeting at 10:16 a.m.

Mr. Abrams: Yeah, further up the hill.

Mr. Chun: Yeah. Have that access easement rights over that...they call it a roadway easement.

Mr. Abrams: Okay. And that roadway easement, that's twenty (20) feet, yeah?

Mr. Chun: Yeah. And I think that's reflected in the quitclaim deed, Exhibit A, to the quitclaim deed, which is Attachment A to the application.

Mr. Abrams: So is it this particular property that is...the office owns that? Or is it the...your next door property that you have?

Mr. Yates: Are you talking about the road that runs up-and-down by Nihi Kai and in front of the restaurant, sir?

Mr. Abrams: Yes.

Mr. Yates: Okay. As the way I understand it, the road actually ends by the tennis courts and then the road that goes up to all of the residences up there is an easement that is taken care of, collectively, by the neighbors. Luckily we've never had to do anything, but that's our easement and if any improvements have to be done on it, everybody has to chip in, as I understand it.

Mr. Abrams: Okay, so it's not a County road then? It's just an easement...

Mr. Yates: No. I don't know why. (Laughter in background) I really don't.

Mr. Abrams: I think I know why. Maybe because of the fact that it's only twenty (20) feet. I don't think that the County would take that as a dedication. Does the...there isn't any sidewalk on that side? Because...is an R-10 property supposed to have sidewalk around its perimeter?

Mr. Yates: There is no sidewalk, no.

Mr. Abrams: No? Not up the hill, right? Not on the easement, right? Because it's only twenty (20) feet.

Mr. Yates: That's correct.

Ms. Galinato: I don't have that information right now.

Mr. Chun: As far as the issue of...yeah, the Use Permit requires access to a public road, and there is access to a public road. Nalo Road is a public road, and the access easement gives you access to the public road. So I mean, that's why it does meet the requirements for the permits. And I don't believe Public Works came in with any comments regarding improving the roadway or the easement.

Chair Mahoney: Okay. Any further questions? Hearing none.

Mr. Chun: I was just showing the applicant...I think some of the pictures that were attached to the application...if you look at the frontages, there appears to be a sidewalk area along that area, but it ends, yes. It ends around where the tennis courts are, which happens to be right adjacent to our property, and I think that's where the cutoff between Nalo Road and the easement is.

Mr. Abrams: Try look at...what is this...Exhibit D, where you see the parcel.

Mr. Chun: Exhibit D is the TMK, yes.

Mr. Abrams: Yes. So that easement then runs past this property and in front of the other property before it hooks up with Nalo Road, right? And Nalo Road, I guess at this point, has the sidewalk on it.

Mr. Chun: Again, I'm looking at the picture. I'm not quite sure where the property lines are.

Mr. Abrams: Yeah, I'm pretty sure, yeah.

Mr. Chun: So yeah, it goes at least till Parcel 43. I don't know whether or not anybody has maintained a sidewalk past Parcel 43. It might. I just don't know.

Mr. Abrams: Okay. That would be...I see a little bit of it on...across there's the parking lot. This is on, excuse me, Exhibit K. That top picture where that's the parking lot across that you're talking about for the overflow parking if it is ever needed, yeah? Or at least what the restaurant had under... And then that happens to be the easement there, and there appears to be...I don't know whether that's a curb or a line, a red line there that I would assume would be like "No Parking" simply because it is only (inaudible).

Mr. Chun: Yeah, it's a curb.

Mr. Abrams: It's a curb, yeah. And it's painted red.

Mr. Chun: Yes.

Mr. Abrams: And so that...okay. But that's basically the property owner's...you're next door. Who...I'm not quite sure on this TMK map, which owner owns the easement.

Mr. Yates: The easement?

Mr. Abrams: Yes.

Mr. Chun: The easements are owned by all the residential properties that go past Nalo Road. I mean, again, as an example, Exhibit A to our application is the quitclaim deed to Mr. Yates. And that deed, if you look at the exhibit to the deed, describes that together with the exclusive right-of-way, following the described 20-foot roadway. So my understanding, I think we've done work for other owners, not all of them, but the other owners also have similar language in their deeds also. So I believe, based upon that language, that the roadway easement is owned by all the other lots that are served by that easement going down to Nalo Road.

Mr. Abrams: Okay, and that's on Exhibit A of the deed?

Mr. Chun: Yes, Exhibit A of the deed, which is Exhibit A to the application.

Mr. Abrams: That calls for...following described 20-foot roadway at Parcel 44. Is that...?

Mr. Chun: It says, yeah, together with a nonexclusive right-of-way and the following described 20-foot roadway being a portion of Grant 1416 to Eke Opunui, being also a portion of private road (20-foot wide) of Lee Kwai Tract at Weliweli, District (of) Kōloa, Island and County of Kaua'i.

Mr. Abrams: Okay, so it mentions a Parcel 44, or (4) 2-8-19 Parcel 44, who actually owns it?

Mr. Chun: No.

Mr. Abrams: Or is described as that? Being...

Mr. Chun: It's described. And also, you got to be a little bit...that's why the metes and bounds, which goes on further...it describes the metes and bounds. The metes and bounds would probably be a better way of looking at that because sometimes the TMK map number/parcels change over the years. I'm not quite sure on this one, but the metes and bounds...this follows the metes and bounds description, particularly, as to the roadway.

Mr. Abrams: Okay. So then yeah, anybody who has this referenced in their deeds up the street, including Nihi Kai, I guess, would be responsible for that road?

Mr. Chun: (Laughter in background) Yes.

Mr. Abrams: Yeah. Maybe.

Mr. Chun: In this situation, it seems to be they're working happily ever after together, but it would be nice to have a grant of easement with maintenance requirements, but generally, you are correct. Yes.

Mr. Abrams: Okay. Alright, thank you.

Chair Mahoney: Okay.

Mr. Dahilig: Mr. Chair, we do have a recommended action and conditions. Jody has laid them out as part of the report, and is able to read them to the Commission or whether the Commission would like to have them discussed.

Ms. Galinato: You would like me to read the recommendation?

Chair Mahoney: Yes, please.

Ms. Galinato read the Preliminary Recommendation section of the Director's Report for the record (on file with the Planning Department).

Administrator Furfaro left the meeting at 10:25 a.m.

Chair Mahoney: Thank you. Does the applicant have any comment about the...?

Mr. Chun: Yes, we have no objections to the proposed conditions.

Chair Mahoney: Okay, hearing none. Chair will entertain a motion.

Ms. Anderson: Motion to approve Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion?

Mr. Abrams: Yes. I'd like to see and I'll probably put out a condition that deals with the situation where the general public on all the other rental units don't come to the property because of the administrative nature of the building, so that they will be all handled elsewhere because of the situation there. There are several other management companies that are in the area that are all on Use Permits that are limited to a certain extent to basic administrative work, but the idea would be to treat it as an office so that it doesn't attract, during the day, any more than what the staff is that's working there as they've represented and wanted to make it clear that they're there. The question then in regards to hours of an office, I don't know how quite to approach that from the standpoint of whether, you know, I mean, I'm assuming at night it would be closed and that thing, and they wouldn't be doing any check-ins. But Nalo Road is a fairly congested road, as far as I can tell right now; a lot of people going up, a lot of the people who are checking in to the condos going in and out. I know that adding more check-ins for properties that are not in the immediate area, they are at Nihi Kai, which is going to be handled there, would be a problem. I'm glad to hear that they are going to have those check-ins handled through their office on Po'ipū Road, so that makes sense to me. But I want to make it clear that the whole area as an office should be limited to the administrative side.

Administrator Furfaro returned to the meeting at 10:31 a.m.

Mr. Abrams: I had asked Staff to give me an idea of the Use Permit that they had done across for Po'ipū Kai, which they conditioned it, you shall be limited to resort-related office functions, such as reservations, bookkeeping, accounting, marketing, public relations, administration, and management. No resort rentals or timeshare sales shall be conducted. So the idea was that they weren't going to be doing any of that portion of that. I don't know whether that completely addresses that, but the people who are under that permit right now, which is Suite Paradise, is required to go ahead and do that, and not actually have check-ins, from what I can tell, anything more than what is there on the property and nothing else. So sort of the outside aspect of it. With that, I would propose to...I don't know, whether we should take a recess or something where I can talk to Jodi, but I wanted to get the feedback of the other Commissioners in regards to what they think in regards to that before proposing...

Mr. Keawe: That was the purpose of my original question about where are people going to check-in.

Mr. Abrams: Yeah.

Mr. Keawe: So what you are proposing is a condition for approval that specifies the type of activities within that office building?

Mr. Abrams: Yes. That would mostly...specifically be not related to the general public of the other places that they have because...and that the other ones be directed to those projects, okay? And that they check-in at the property that is on Po'ipū Road.

Ms. Anderson: I would support either withdrawing my motion to allow for an amendment to be made to the conditions consistent with the language you've proposed.

Chair Mahoney: There was a second.

Mr. Keawe: And I would withdraw the second.

Chair Mahoney: Okay.

Mr. Dahilig: Mr. Chair, it's coming up about an hour and a half on the clock. Maybe an opportunity to also take a caption break, along with a recess, and give us an opportunity to provide amended recommendations to the Commission.

Chair Mahoney: Okay. We'll adjourn for a caption break.

The Commission recessed this portion of the meeting at 10:33 a.m.

The Commission reconvened this portion of the meeting at 10:44 a.m.

Chair Mahoney: Call the meeting back to order.

Mr. Dahilig: Mr. Chair, the Department has met with the applicant concerning this particular...the conditions on this, and we would like to amend our report to the Commission to include an additional condition.

Ms. Galinato: Yes. We'd like to add Condition No. 12, as represented, uses shall be limited to resort-related office functions, such as reservations, bookkeeping, accounting, marketing, public relations, administration, and management. No resort check-ins or timeshare sales shall be conducted.

Chair Mahoney: Okay, thank you. Is the applicant in agreement?

Mr. Chun: The applicant has reviewed it, and we would agree to that condition.

Chair Mahoney: Thank you. So that leaves...Chair will entertain a motion.

Ms. Anderson: I motion to approve Class IV Zoning Permit Z-IV-2016-9 and Use Permit U-2016-8 based on the Director's Report as amended.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion on the matter? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

Mr. Chun: Thank you, Mr. Chair and members of the Commission.

Chair Mahoney: Thank you.

Class IV Zoning Permit Z-IV-2016-10 to allow construction of two (2) additional fuel storage tanks on a parcel located along Waapa Road in Nāwiliwili, approx. 300 ft. south of the Kanoa Street/Nāwiliwili Road intersection and further identified as 3185 Waapa Road, Tax Map Key 3-2-004:016, and containing a total area of 1,3154 acres = *Kaua'i Petroleum Company Ltd.*

Mr. Dahilig: Mr. Chair, we are now on Item G.2.c. This is Class IV Zoning Permit Z-IV-2016-10 to allow the construction of two (2) additional fuel storage tanks on a parcel located along Waapa Road in Nāwiliwili. This is, again, the Kaua'i Petroleum Company application at Tax Map Key 3-2-004 parcel 16. Dale is our Planner and will present the report on behalf of the Department.

Dale Cua: Good morning, Mr. Chair and members of the Commission.

Chair Mahoney: Good morning.

Mr. Cua: I'll be kind of going through the Director's Report and kind of summarizing the highlights of the report.

Mr. Cua read the Action Required, Project Information, Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

Mr. Cua: That pretty much concludes the Department's report.

Chair Mahoney: Thank you. Is there a representative for the applicant present? Could you state your name for the record, please?

Michael Belles: Good morning, Mr. Chairman and members of the Planning Commission. For the record, my name is Michael Belles, representing the applicant. With me, to my right, is Mr. David Harjo, the General Manager of the petroleum facility for approximately the past three (3) years. You have to excuse me for my voice. I've just come off a small bout of bronchitis, so it will be coming and going, but I'll do the best I can to soldier on through this. And also, I'd like to begin by congratulations to the Chair on the election to be Chairman of the Commission; a significant and noble and honorable position as carried out by Ms. Anderson before you, and wish you the best of luck in the coming year.

Chair Mahoney: Thank you.

Mr. Belles: The Planning Department Staff has accurately and adequately described the application as its pending before you today, and to graphically describe it for you, I'd like to indulge and ask for a few minutes just so we can put a few exhibits up because I think it will make it easier for all of us rather than going back and forth to the application and some of the exhibits. I think we can show it succinctly on four (4) different exhibits, and then if there are any questions, we can obviously respond to it at that time.

Chair Mahoney: Okay, you may.

Mr. Belles: Thank you, Mr. Chair.

Mr. Keawe left the meeting at 10:53 a.m.

Mr. Belles: Again, for the record, Michael Belles, and with me, David Harjo. We have exhibited up there four (4) different display boards. The first one shows you...on the far left...basically the view from 30,000 feet, which shows you the harbor in relationship to the existing tank site facility. There are, on the property, currently ten (10) tanks; four (4) larger tanks and six (6) smaller tanks. To the right of it, you can see the location of us and the relationship of the Kaua'i Petroleum to the Aloha site. The reason why these graphics are also important is that they pretty much show you that historically, these lands, which are industrially zoned, have been used for petroleum and fuel storage, as far as we can tell, back to 1951. We do have some aerial photographs showing a tank farm, for lack of a better term, showing as many as ten (10) different tank sites on this particular location. And over the years, depending on demands and the needs, the tank configuration sizes have changed, but this has been the consistent use since the early 50's. To the right of that, the graphic shows you what we're proposing today, which is the full buildout or the master plan for the site, which will include two

(2) new tank sites. You'll see in your handout, the existing sites are described as existing tanks, and the new proposed ones are described as new proposed tanks. So again, two (2) new proposed tanks on the entire tank site. The photograph to the extreme right that shows you what the view is along the road today looking back, and the one void you see between the two (2) tanks, with the six (6) smaller tanks behind it, that's where we'll be putting one (1) tank, and immediately behind that will be the second larger tank. So again, just to give you the nature and the character of the area, it is industrial in scope and nature, and surrounding us are industrial types of uses and activities. At any one point in time, we have one (1) to two (2) employees on-site, and we are proposing four (4) parking stalls. We don't expect that to ever be utilized because customers do not come down here to the site to transact business. It's strictly a matter...case of tanker trucks coming down, tanker trucks getting filled, and heading either to the airport or to the Port Allen or the west side of the island. The intent is to manage the traffic flow in such a way that the tanker trucks are not operated during peak travel hours, but on non-peak travel hours. The main roads being used will be Rice Street coming from the airport to this location, and then going to the west side it will be going up Nāwiliwili Road on to Kaumuali'i Highway then on to the west side, so we are not going to be engaging in any traffic activities which will be interfering with any other commercial or residential types of activities, and again, not interfering with peak travel hours during the day. In as much as the Planning Department Staff has thoroughly described the project and there has been no historical issues associated with this property since the beginning of its usage in as best as we can gauge, six and a half decades ago, I'd simply like to turn it over for a very brief overview in terms of the types of fuels, the nature of the operations to Mr. Harjo, and then we'll make ourselves available to respond to any questions that the Commission may have.

Chair Mahoney: Thank you.

Mr. Belles: Thank you.

David Harjo: Thank you, Mr. Chair and the rest of the Commission. Basically what we are hoping to accomplish is to ensure the integrity of the fuel supply to the island, so that's what we're doing is looking at constructing two (2) extra tanks at this site. At the site, Kaua'i Petroleum handles pretty much all types of fuel. We have regular gasoline, premium gasoline, ethanol, jet fuel, and we also have diesel. So the majority of the fuel on the island comes from this facility. We have, as Mike mentioned, customers throughout the island. We have customers on the west side, Kaua'i Coffee and some of the other Ag users, but we also have municipal users. We supply all of the fuel for County operations, for State operations. We also provide diesel for all of the hospitals. So maintaining that integrity of the supply is really what we are focused on and hoping to accomplish with constructing these additional tanks. As Mike mentioned, we are concerned about the tanks and making sure that they fit in with the surrounding uses, so all of our tanks are going to be...the new proposed tanks are same size or same height as the existing tanks. As Mike mentioned, one (1) of the tanks will be a little bit larger in diameter, the other will be a little bit smaller than the two (2) larger ones you see right there. So it is, again, looking to provide additional capacity for us to provide the fuel for the island. The gasoline, you know, our site serves all of our businesses; Kaua'i Automated Fuels, all of the 76 Stations. But we are also terminal...have a terminaling agreement with Aloha Petroleum. Aloha Petroleum stores their gasoline in our site. They provide all of the Costco

business and they provide all of the Shell business as well. So again, what we are looking at doing is just maintaining that integrity of supply, making sure that we have enough for the island's needs.

Chair Mahoney: Thank you.

Mr. Belles: And with that, that concludes our presentation, and again, we'll make ourselves available to any questions the Commission may have.

Chair Mahoney: Thank you. Are there any questions for the applicant by members of the Commission? Commissioner Anderson.

Mr. Keawe returned to the meeting at 11:00 a.m.

Ms. Anderson: I have a question. The new tanks...I'm curious as to the age of the old tanks, and if there is a long-term plan, if there are increasing safety precautions regarding thickness of the tanks. I'm wondering if the new tanks are actually safer or have a higher level of protection for this kind of use.

Mr. Harjo: Thank you, Commissioner. You know, the safety of the tanks is critical to us, so the new tanks that we will be constructing are meeting all of the requirements by the standards of the American Petroleum Institute. What they do is they maintain various guidelines and requirements to ensure consistency and safety of all of our tanks, so we will be adhering to all of the API requirements. For the remaining tanks in the farm, we are required by API to perform a full analysis of each tank every twenty (20) years. So within that process, we have to take it down, remove all of the product, go in and have somebody physically come out and to ensure that the tank meets all of the safety requirements. So all of those requirements are established within the API and with the ASTM, and other such agencies. We do conform to that and ensure that they are of the highest quality.

Ms. Anderson: Do the requirements incorporate such events like tsunamis, or other events that may jeopardize that particular area?

Mr. Harjo: They do. Hawai'i is a little bit different that we do have tsunamis and we do have, I guess, a high potential for hurricanes, so all of the requirements within the American Petroleum Institute guidelines do account for that, and all of the necessary construction methods do have to conform with those type of potential occurrences happening.

Chair Mahoney: Thank you. Any further questions? Commissioner...

Mr. Keawe: Just a couple. Are you increasing your total capacity on fuel storage with the addition of these two (2) tanks?

Mr. Harjo: Yes, we are.

Mr. Keawe: And do you have...I assume you have protocols in place for accidental leaks. Given the picture, the proximity to the ocean or to the harbor is quite close. Can you explain a little bit about what would happen in a case of a leak of product?

Mr. Harjo: First of all, we do have them...that's a great question. First of all, we do have necessary precautions in place, all the plans in place. We have spill prevention plans that are mandated by the Federal Government and that are enforced by the U.S. Coast Guard and the EPA, so they come out and they examine our plan to ensure that if there is an accidental spill or something like that, that we do have the mechanism to make sure that's dealt with correctly. So in that event, what we do is we work very closely with our partner agencies, the United States Coast Guard, US EPA, local officials with the County, you know, Fire Department and all of those folks, so they review our plan and make sure that we are positioned to make sure that we are able to deal with that.

Mr. Keawe: Have you actually done a live drill?

Mr. Harjo: We have. We just did a drill. We had what was called a "no-notice drill" by the EPA and Department of Health. They came out, I believe it was in July, Commissioner, and so what they do is they come out and they give you a drill that says here is the situation that happens, go deal with it. And so they have an expectation that you are going to be positioned to have the appropriate resources and follow their appropriate protocols to ensure that you're dealing with it in an appropriate manner.

Mr. Keawe: And how did you do?

Mr. Harjo: We did really well. I was the on-scene person, and so the EPA sent us a notice saying that we did really well and we passed.

Mr. Keawe: Thank you.

Chair Mahoney: Any further questions?

Mr. Katayama: Chair, I just have a quick...what's the status of the EA? When do you think you'll have that completed?

Mr. Harjo: The EA...we've submitted the final draft...well, we submitted the preliminary draft, I believe it was in December, so we've just now submitted the final draft, I believe it was this week, Commissioner. So we are assuming that once that occurs, we'll work with...I think the Department of Transportation is the lead agency on that, so we'll work with them and answer any questions that they may have. We are looking for the Finding of No Significant Impact within, we're hopeful, the next thirty (30) days.

Mr. Katayama: Has this been agenda'd?

Mr. Dahilig: The 343?

Mr. Katayama: Well, the permit application is...right now we're asking for deferral subject to a submission of an EA...accepted EA.

Mr. Dahilig: So the EA will be...once accepted, then it will be proper to actually be able to take action on this.

Mr. Katayama: Okay, so we have not agenda'd this item?

Mr. Dahilig: Yes. So it's...at this point, this is for information purposes and our understanding is that the applicant will be able to...is understanding that we cannot take action, even though the hearing has been closed, the Commission cannot take action by law until such time as the FONSI is issued.

Mr. Katayama: Okay, thank you.

Mr. Belles: And as supplement that we understand full well that in the event that we run up against the sixty (60) days that we will waive any time limitations in order for the EA time period to expire.

Mr. Katayama: Alright, thank you.

Mr. Abrams: So we couldn't approve it contingent...I mean, you wouldn't be able to do anything anyway if you didn't get a FONSI anyway, right?

Mr. Dahilig: Right.

Mr. Belles: Right.

Mr. Abrams: So could we condition it that you have to get clearance or a FONSI?

Mr. Dahilig: Yeah. I guess our recommendation would not be to even...

Mr. Abrams: Do anything?

Mr. Dahilig: Do anything at this point until a FONSI is...

Mr. Abrams: Just defer it?

Mr. Dahilig: Yeah. Is issued because in case there are disclosures that the Commission may, through an acceptable FONSI, I guess, read as a consequence of what is the final document and realize that maybe certain conditions may or may not address some of those that are in the fully disclosed document, it would not be proper at that juncture to have those conditions in there without the opportunity to have a final disclosure through the document.

Mr. Belles: And to add something to that, as much as I'd like to have approvals in any all cases, I mean, I do feel it would be prudent for the Commission to see what the FONSI is to make sure

that there aren't any findings or determinations that might affect a decision or a condition that you may want to consider imposing.

Mr. Abrams: Okay, thank you.

Chair Mahoney: Any further questions?

Ms. Anderson: I have a question. This may be to the applicant or the Planner in this matter. This is regarding what may be included in the EA. I'm curious if an analysis regarding the projections of climate change and the change in sea level in that particular area has been included in the EA, and then I would ask the Planner if that is something, whether or not it is included in the EA, if that could be submitted to the Commission so that we are aware of the projections within twenty-five (25)/fifty (50) years of...depending on the forecast of the change in sea level.

Mr. Cua: As the applicant mentioned, I think once a FONSI is determined, I think it would be prudent for this Commission to receive a copy of the document, and it will probably give you an opportunity to take a look at the analysis that was prepared in the report. And I think at that point in time, it would then be prudent to...you know, if you still have concerns, to impose any requirements that you may feel would be appropriate to address this particular application.

Mr. Belles: The deadline for filing any comments on the published EA was December the 8th, so based on any comments that were filed, it's our understanding that some State and other governmental agencies filed their standard comments on any type of facility like this. Responses are made by the developer, in this case Kaua'i Petroleum, and those all become part of the entire assessment, analysis, and then the report. At that point, it would be best to give you the application, the comments, the responses, and the final report.

Ms. Anderson: Okay, thank you.

Mr. Dahilig: So Mr. Chair, it would be our recommendation to request the Commission defer the matter until such time as a FONSI has been accepted, and to set the meeting immediately after the FONSI has been accepted and the challenge period has (inaudible). So that would be thirty (30) days after the acceptance.

Chair Mahoney: Chair will entertain a motion to...for deferral.

Mr. Abrams: Move to defer Kaua'i Petroleum's application till such time as a FONSI's received and...

Mr. Dahilig: The challenge period has (inaudible).

Mr. Abrams: The challenge period has...there.

Chair Mahoney: Is there a second?

Mr. Katayama: Second.

Chair Mahoney: It's been moved and seconded. Any discussion?

Ms. Anderson: I just wanted to make clear, and I do see that it's in the Director's Report, but just to make clear on the record that the applicants have waived the time period for making a decision on this matter.

Mr. Belles: Yes.

Chair Mahoney: So acknowledged. So moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

Mr. Belles: Thank you very much.

Chair Mahoney: Thank you.

Zoning Amendment ZA-2016-1 to amend Chapter 10 of the Kaua'i County Code 1987, as amended, to allow for additional rental units to be constructed and used within the Puhi, Līhu'e and Hanamā'ulu areas to help achieve housing demands identified in the Līhu'e Development Plan = County of Kaua'i, Planning Department.

Mr. Dahilig: Thank you, Mr. Chair. We are now on Item G.3.a. This is the Zoning Amendment concerning the additional rental units, ZA-2016-1. I'm going to yield the hot seat over to the Deputy Director to handle this matter.

Deputy Planning Director Kaaina Hull: Good morning, Chair and members of the Commission. Concerning the draft ARU ordinance that you folks have before you, the Department has a supplemental report in which it goes out...most of the issues...this is a third discussion, I think, we're having on this. Most of the issues seem to have been vetted out. The two (2) remaining issues that were still outstanding at the previous Commission meeting were concerning: (1) the concern over restricting the size of potential additional rental units, the concern that it may be overly prohibitive on the provision of additional housing units; and then the second one was, it concerned allowing the Department to have latitude to allow additional square footage for after-the-fact ARU Permits, that it may be beneficial in bringing existing structures into compliance. The Department met with various groups within the housing industry. In particular, we met with the Board of Realtors, which pointed out that the largest demand that is not being met currently for rental units is for the kupuna or elderly population and for young families. It was also expressed by many realtors that keeping the square footage at the currently proposed sizes would ensure the market itself keeps the prices relatively low and affordable for those two (2) market groups; those two (2) market groups being the kupuna and the young family market groups. And finally, in meeting with the realtors, it was pointed out that while removing the square footage restriction would be advantageous to property owners and realtors in that it would make respective ARU properties more valuable, given the dire need for rental units for the elderly and young families, many of the realtors recommended against removing the square footage restriction in order to start addressing Kaua'i's current housing crisis. So that's why the Department is actually holding fast at the original proposal to have a limit on the square footage of respective ARU units. The second concern about the Department having additional latitude to

allow for more square footage for after-the-fact ARU permits, this will help address compliance, but because there is concern where consistency in which the square footage requirements would be applied, meaning the after-the-fact permits would be given more latitude than say the legally applied for applications for ARUs in the first place. Given that, the Department is still holding to its original recommendation of the 800 square feet and 400 square feet, respectively, given the lot size and that no additional leeway be given to the Department for its discretion to apply to after-the-fact permits. And ultimately, those are the two (2) outstanding issues that the Department reviewed, researched, and met with the various groups, and that is our final recommendation to this body. We still stand by the need for the additional rental unit ordinance to ultimately send to the County Council for their review and action, given that it addresses some of the housing needs...or the housing crisis that we are beginning to enter here on Kaua'i; in particular, looking at easing it up for the Līhu'e area. Thank you.

Chair Mahoney: Thank you. Any discussion by the...question for the Deputy Director?

Mr. Keawe: Real quick, Kaaina. I'm sure you've done some surveys about rentals, and maybe Commissioner Abrams would know, what would be the typical rental value of a 400-square foot rental and an 800-square foot rental within these designated areas?

Mr. Hull: You know, I don't have those numbers off the top of my head. I know that an approximation for a studio unit in Līhu'e is going for roughly...I want to say around anywhere from \$800 to \$1,000 a month. I know there is an audience member in the public that we met with at the Board of Realtors that may be better versed in giving you those specific numbers as they exist today. And of course they fluctuate given demand.

Mr. Keawe: Okay.

Mr. Hull: We are seeing those rental costs increasing as demand increases and the housing stock remains relatively stagnant or the same.

Mr. Keawe: Right. I think that would have some bearing on getting people to move towards building ARUs.

Mr. Hull: Correct. And I didn't get into the very specifics of actual market prices for each respective area for Hanamā'ulu, for Puhi, for Līhu'e area with the Board of Realtors, but ultimately, I think their contention was that by keeping that size restriction...because ultimately you will see the market, as we progress and the way it's going right now, the rental rates are going to increase, property rates are going to increase. Given the relativity to existing property rates and existing housing stock available right now, by keeping that cap on the size, it should, relative to the rest of the market supply, keep it relatively low or somewhat affordable for these two (2) particular market groups.

Chair Mahoney: Chair [sic] Anderson.

Ms. Anderson: I'm curious as to integrating some of the restrictions into the ordinance. I'm aware that there are restrictions on the lot size. For instance, in order to do an additional

dwelling due to the requirement to having a septic system, and so just so that people are on notice that when...should this ordinance move forward, that there are these types of conditions that are there prior to making the efforts and going forward to getting something similar to an ADU clearance. I'm wondering whether or not you've looked at including those kinds of restrictions in the actual ordinance.

Mr. Hull: No, quite frankly, Commissioner. The reason being is that because there are additional standards, like say the lot size as it's necessary for an adequate septic system, because those rules and regulations are under the Hawai'i Revised Statutes, as well as under the purview of the Department of Health, just for say those respective regulations, you also have fire regulations, you also have building regulations, (inaudible) regulations. All of which are concerning the safety and welfare of the site, as well as the surrounding area. Those regulations, one can change, as well as they can be addressed by other technologies that sometimes come onto line, so by wrapping them into the zoning ordinance, the Department would be hesitant about doing that. I mean, putting...there is a benefit of putting the applicants on notice, which is why we believe the ARU clearance form would help to do that, but wrapping it in the ordinance for the purposes of notice could be somewhat problematic in the sense that it's not totally under our purview and there are other things that can change that could be addressed or worked in that manner that the zoning isn't equipped to deal with.

Ms. Anderson: Okay.

Mr. Ho: You know, Kaaina, you're asking the private sector to come to your aid here, building rental units that are affordable here. I guess you are going to have to make it attractive for someone like us to build that unit. A small unit like that, that you have to look at the rest of your life, I don't know about that. And then you are going to have to convince your significant other that hey, honey, we are going to build a 400-square foot unit and make it affordable housing. Now, I don't think you'd do that...I don't think you'd be a non-profit is what I'm saying, you know. This thing has to be for-profit. If you let them build a larger unit and you put a cap on it and say if you pull the permit for five (5) years, you have to rent to someone that has 30% of their gross income, no more than that. Or on the back end, you say take off 4% from your rental income for the year if you rent it to a lower income person. After the five (5) years, he has a pretty decent rental unit, and he can search the market for what he can get. If you let them build big, you might have a chance, but if you let them build one (1) small and then tell them oh you can qualify for a larger unit, I don't think that's going to happen. Once you build it, it's going to stay there. The other one we looked at, we try to maximize the lot size. You can make it either this or either that, just so that you can get some kind of movement in the marketplace is probably what you want, something to get moving in there. I don't know any other way to...you got to stimulate the public somehow and I don't know how you would.

Mr. Hull: Yeah, Commissioner, that point is well taken and it's a fine balancing act because it's...the ultimate...ultimately, we're trying to address the demand side. There is a very large pent-up need, in particular, for middle-income or lower-income families, workforce families, here on Kaua'i to have housing alternatives. At the same time, we need to provide enough impetus or motivation from the supply side to provide those type of housing units. Like I said, in our meetings with, not just the Board of Realtors, but as well as with the housing folks, we

believe that people will take advantage given the respective limitations on size, and in particular, by maintaining that limitation on size, you are addressing those in most dire need of housing; as opposed to if everybody is given the alternative to build larger, there is a possibility that we will miss addressing those dire needs and the kupuna and the young family housing needs. But I hear you, it's a fine balancing act, perhaps, that won't stimulate the supply side enough.

Mr. Ho: What does KEO and the Kaua'i Housing Authority...any input from them?

Mr. Hull: In meeting with the Housing Agency in the original proposal, it was of that mindset that by keeping the square footage down, it will address these needs. And in particular...they even went through this discussion of requiring affordable housing rents, which they monitor and regulate. It was of their mindset at the time, at least when I was meeting with the Director of Housing, Kamuela Cobb-Adams, it was of his mindset that by keeping the square footage there, it will already ensure that you will be meeting the needs of the affordable housing market itself. So there was no need, necessarily, to implement those further regulations of you shall be renting these to a certain bracket of income here on Kaua'i.

Mr. Abrams: Yeah, Kaaina, I guess the Housing Agency, in doing its work to target that category of people, in regards to the low and moderate income, and have done projects, you think that it's been able to float on its own without some other outside stimulation or help? Because that's basically what you're saying right?

Mr. Hull: No, yeah, and to go back when we initially presented this, I was quite frank in the discussions that this was initiated by the Housing Director at the time, saying I am building projects through my agency. It takes me \$6 or \$7 million to put twenty (20) units on the ground. When we are looking at a demand of needing 9,000 in twenty (20) years here, right? And he's saying, I can use \$6 million to build "x" amount, but I don't have any more money left. With what he's been able to do through entitlements and say Class IV Zoning Permit/Use Permit exactions, the Housing Agency has put a fair amount, but his pitch was that it's not making a dent in the demand and need for housing here in Kaua'i, and how can we stimulate the private sector, individual landowners, to, perhaps, build these additional units.

Mr. Abrams: Well those before, I guess, investor groups were looking for tax breaks, right? Weren't they basically looking for things that would not have any taxable consequences to them, or over a period of time, I understand, was the ability to gain control back of a project if they subsidized the rentals that were going on. That's in essence what we're asking the residents of Līhu'e at this point right now to do, right? Because even our own Housing Agency can't do that to stand on its own and that's been our dilemma. And when they do get the funding, they can, but they just can't...you know, the demand outstrips whatever their supply pace; I understand that. But I don't think you are going to get the private sector to jump in if there isn't something in there for them, so I'm trying to figure out what that might be, but right now, I really don't see too much. And that's why I'm going like okay, but look, at least it is a movement in the right direction, and we'll see how our Council gets involved with it from the policymaker's standpoint and see whether or not we can make something of it. I know they are grappling, right now, with just the regular Section 8 housing where they are trying to figure out whether or not to stimulate private sector to get into the rental business as to whether or not they look to addressing their

concerns or to subsidizing the rentals for the people in there who can afford to pay the market rents or somewhere close to it, right? So all of that is all assistance on one way or the other, in order to get that gap to work, okay? And I don't see that ingredient here right now and I'm hoping that something will be there. I might, I guess, if I was looking at my mother or somebody who was there, build an affordable rental so that she could have that as part; that seems to be something that I would subsidize, I guess, because you know, I'd get into trouble by her if (inaudible). But anyway, that is something I'm thinking that you...we still need to sort of struggle to try and figure out what would do it without getting into the concerns that you have, which is that this will get out...price itself out of the marketplace and then not become available permanently. And that's where I think the dilemma's going to be.

Mr. Hull: Yeah, and Commissioner Abrams, to that...no, yeah, you're correct. I think you're correct in the assessment that this is not the only...this may not be the...just by giving the entitlement does not necessarily mean that the landowners are going to jump and take advantage. We're fast learning that through some of our plans and some of our previous actions over the past several years of the fact that because you zone it, does not mean that they will come. More often than not, when you look at things...when we look at other places and other municipalities that have guided growth in a particular area, it comes as a two-part process; it comes as zoning entitlements, as well as infrastructure. The infrastructure, when you put there, often times they will come. And that discussion is being had with other agencies in ways that we might be able to free up the infrastructure for these types of uses. But this is kind of...the zoning proposal right now is the first Rubik's cube move that we're attempting to do in order to begin to address these needs.

Mr. Abrams: Yes. And that's why I'm going to support whatever you want to try and get on the table, and move it as fast as we can so that we can see how it works, and then I'm sure you'll be back to readjust a few things; something needs to come back to us.

Mr. Keawe: One more question, Kaaina. In your tenure here, has there been any programs that have been very successful or moderately successful in meeting housing needs that, you know, maybe could be massaged or changed in some way to try to fit in to what we are trying to do?

Mr. Hull: You can definitely say that when they...I wasn't here for it, but you can definitely say when the ADU ordinance was passed, that began to definitely address much of the local housing needs.

Mr. Keawe: Right. And then it went off-track because of the speculation.

Mr. Hull: It went off-track partly because...yeah, that's just the nature of the beast when it comes to property.

Mr. Keawe: Right.

Mr. Hull: But, in looking at it, it also went off because of speculation (inaudible) the ability to CPR the unit off.

Mr. Keawe: Right.

Mr. Hull: And bringing in that sell-ability to that housing supply began, to a certain degree, pervert the original intent of the ADU ordinance. In us trying to limit both the subdivision, as well as the CPRing of these potential ARU units, we hope to prevent or mitigate the impacts of that perversion, essentially.

Chair Mahoney: Any further discussion? And could I ask a question of...so, depending upon what happens here, we reach an agreement that this will be sent up to the Council and the Council would tweak it?

Mr. Hull: Yeah, so if the Commission feels like taking action, you can take action on what is proposed here in the recommended draft bill for the ordinance, or you can amend it. If action is taken in the affirmative, it gets sent up to the Council, at which time they will debate it within the...first the Planning Committee, and then the Council as a whole, to determine whether or not additional tweaks are needed. There has been discussion about a potential companion piece moving up to the Council as well, which could entail other possible incentives for the building of these types of units, and we would attempt to essentially make sure that those two (2) pieces go in tandem to the County Council. If anything is proposed as a companion piece, we will be submitting it to this body just for somewhat notice purposes because many of those incentive packages don't actually fall under the purview of the Planning Department or the Planning Commission, so it could be potentially in wastewater, or under the real property finance ordinances. So there wouldn't be any official actions that this body could take on it before notice purposes, as well as if you guys had any input as a body to give to the County Council concerning some of those incentive proposals.

Mr. Keawe: So potentially, that could be something that they could add on to whatever...?

Mr. Hull: Yeah, it would be a separate ordinance amending a separate portion of the Kaua'i County Code to say incentivizes if it's for taxation purposes or if it's for say waiving or mitigating wastewater fees for hookups to sewers. There would be a separate ordinance amending the respective section of the County Code.

Mr. Keawe: Okay.

Chair Mahoney: So our job today would be to either amend some of this or decide to pass it up to the Council for consideration? Would that be an appropriate summation?

Ms. Higuchi-Sayegusa: Yes.

Chair Mahoney: And could I ask the Director a question? Now if...in your opinion, as it stands...this draft stands now, does it reach the target audience if it's elderly and young (families)? Is that the target audience? Or just part and parcel of it? And this is not meant to cure all housing ills, but just a step. I mean, I just read some other figures on housing by another report not too long ago, and this is just...there is a huge demand, but the purpose of this is a start to...one avenue to address a certain fraction of the need; something.

Mr. Hull: Yes, Chair. That's the correct characterization. This is the step in the process of addressing. In no way is this anticipated to be the panacea of our housing needs here in Kaua'i. It's one step, one potential tool, to begin addressing this very dire need. And then secondly, to your first question concerning the elderly and kupuna, that is a well-known group that is struggling with finding affordable units. That was just brought up in our discussions in particular with the Board of Realtor folks who mentioned that many of them have...that's the largest queues that they have of just lines of young families and kupuna looking for rental stock that just isn't there. So this is an attempt to (1) yes, address those needs, but overall housing needs as well.

Chair Mahoney: Thank you. Just as a...for the members of the Commission, are there any feelings (inaudible)?

Mr. Katayama: I have, sort of, a housekeeping question. As proposed by the Department, is Paragraph E meant to stand alone? I know that you have Paragraph F underlined. Is it the intent of the Department to add that as well, as part of the ordinance?

Mr. Hull: Just to clarify, Commissioner, you're asking for Subsection E?

Mr. Katayama: E, right.

Mr. Hull: Correct. We do intend to have...sorry, hold on.

Mr. Katayama: Because as presented without Section F, it sounds like you're giving the Director the ability to approve any existing structure with no prohibition on size.

Mr. Hull: Correct.

Mr. Katayama: I mean, you just read E as stated.

Mr. Hull: Yeah, the E in the previous one is just to allow...essentially, when you're looking at after-the-fact permits, if an individual or a property owner has an existing ARU unit that currently is in violation of the Kaua'i County Code because there is no ARU provision, that subsection just allows them to come in and apply for it and get it approved because it would be approved in the sense that it is now permitted under the Kaua'i County Code, should the ARU ordinance be adopted. All it does though is it just waives the after-the-fact permit fee; that's all that the subsection does is waives the \$500 after-the-fact permit fee.

Mr. Katayama: So if a person has a 1,500-square foot unit, he can get an after-the-fact permit for that?

Mr. Hull: No.

Mr. Katayama: Where is it prohibited in as it stands without Paragraph F?

Mr. Hull: It would be prohibited as it stands. They would have to meet the requirement of 800 square feet on a property 5,000 square feet or larger, or 400 square feet on a property 5,000 square feet or smaller.

Mr. Katayama: So you need to add, in Section E, something referring back to Subsection B, then? Where it states the requirements of an additional rental unit.

Mr. Hull: Well yeah, you don't have to necessarily refer back to a subsection just because all the existing...it wouldn't just be the 800 square feet. You also have to meet the regulations of setback and lot coverage, all of those existing parameters that are established under the Comprehensive Zoning Ordinance, as well as Chapter 10 of the Kaua'i County Code. It would just have to meet all of them. All it does is just waive the after-the-fact fee.

Mr. Abrams: So you want to make it clear...you would make an insertion after...?

Mr. Katayama: Well, I think in our original discussion, we wanted to give a pathway for existing units to become compliant rather than having them develop this underground economy. If the intention is to limit the size of these units, you know, on an after-the-fact basis to 25% more, which means, literally, 500 and 1,000 square feet, respectively, is that the intent?

Mr. Hull: No, that was...

Mr. Katayama: Well, I mean, if you look at the proposed F.

Mr. Hull: Commissioner, the proposed...

Mr. Katayama: Well, I mean, it's for conversation at this point.

Mr. Hull: Yeah.

Mr. Katayama: In providing a path forward, we can take several different venues.

Mr. Hull: Yes, correct. In last Commission's discussion, there was some concern over possibly allowing the Department to have an additional amount of leeway to allow structures a little bit larger than the proposed limitations of 800 and 400 square feet, respectively, to have some type of venue to allow the Department to entertain larger units. A potential way of doing that is saying up to a certain percentage, you can be approved after-the-fact should the Planning Director take into consideration the overall impacts to the neighborhood and the surrounding area. That is an avenue that can be done and can be proposed and amended into the existing draft proposal. As stated in the report that you folks received, the Department is hesitant against doing that in a sense that it...there's a lack of consistency between the two (2) types of uses; the after-the-fact and the proposed legal ones. So the Department would have concern over allowing the leeway to be given to the Director, or discretion to allow for these larger units, but should this body want to allow for that, the way in which you may want to do for it is to allow certain percentage. Say if you took 25% as being the leeway, as Commissioner Katayama gets into, the 25% would allow an additional 200 feet on the 800-square foot requirement and 100 feet on the

400-square foot requirement. So that is a possible avenue. You folks can also play with that percentage; it could be 20%, it could be 30%.

Mr. Keawe: So let me see if I understand this, so somebody has already built one of these, it's 1,000 square feet, it doesn't meet that requirement, and the proposal is to provide a mechanism whereby the Planning Director can waive that initial 800 feet and allow something of a 1,000-square foot. So the new guys coming in still have to abide by the 800 square feet? Is that right?

Mr. Hull: Correct.

Mr. Keawe: Okay.

Mr. Hull: And that's our hesitation on that, is there is a lack of consistency in that. If that is the case, where you want to allow, say, up to 1,000 square feet, then the Department may recommend you actually play with the overall square footage that are going to be permissible for ARUs, as a whole, and not bifurcate the after-the-fact with the new permits.

Chair Mahoney: Does that clear everything up? (Laughter in background)

Mr. Katayama: I guess it's a judgement call on our part is what would be a reasonable threshold? Again, it...without experience and without the data, where do we want to throw the dart? I mean, at this point, it's very, very speculative on our part where the demand and the supply actually works.

Mr. Abrams: And Planning may be back to asking about that if they find out that they've got this situation and they're going to need that flexibility because...I had all kinds of other questions that I talked to Kaaina about a little bit was the fact of what happens if the extra space is now illegal and you have to...I mean, if you got 1,000 (square feet) and you want to take it down to 800 (square feet) and meet the Code, what happens to the other 200 (square feet), you know?

Mr. Katayama: You would have to decommission that I would imagine.

Mr. Abrams: Well, whatever, but basically, that would be allowed, at this point, under the way the structure is, and they wanted to be able to use that because it's easier to administer relative to trying to do that going into a new subject or process here that's hoping to go ahead and stimulate some housing. So they may come back if they find out that that's going to be, you know, the predominant issue of not converting when they want to, and we can then discuss it then. So I was in favor of giving them that leeway originally, and they didn't want it.

Mr. Katayama: I guess where I'm at is that, you know, some...there's no perfect action in this situation, and we need to take action. It's always subject to course correction, I would think.

Mr. Ho: Would that be the larger backing it down to the smaller? Or you trying to go back up?

Mr. Katayama: I have no wisdom on that. I mean, it's always harder to take something away than to give something. Just from a human-nature perspective. If we come out with as proposed by Department and there is no response by the community, then they need to look at what the stimulus needs to be (inaudible).

B.C.: I have a problem; no audio. Can we take a break?

Chair Mahoney: We'll take a caption break.

The Commission recessed this portion of the meeting at 11:47 a.m.

The Commission reconvened this portion of the meeting at 11:47 a.m.

Chair Mahoney: Meeting back in order.

Mr. Katayama: So you know, we can debate the details of this ad nauseam, right? I think we need to do something.

Chair Mahoney: Yeah.

Mr. Katayama: And I'm open.

Mr. Abrams: So Exhibit A is the proposed draft, then?

Mr. Hull: Correct.

Mr. Abrams: Okay. Have you talked to the building industry?

Mr. Hull: I actually met with the Contractor's Association last week. I have to apologize to them if they're watching because I was fairly late for that meeting, but I did speak with them. There were no official comments that have come out of that body. They may be commenting, and if so, that can be forwarded up to the...should you guys decide to take action today, that can be forwarded up to the County Council for their review, but it has been presented to the Contractor's Association.

Chair Mahoney: Maybe we could just go around the room, and if any Commissioner has any comments, then maybe we could kind of move forward on this. Whatever we decide.

Mr. Abrams: I am. I'm going to make a motion right now to approve it.

Chair Mahoney: Does anybody have any further discussion? Okay.

Mr. Abrams: Okay. I make a motion to approve...

Mr. Hull: Hold on. Just to interject, the hearing is still open on this item, so you may want to close the hearing first before...

Mr. Abrams: Okay. I move to close the hearing for Zoning Amendment ZA-2016-1, County of Kaua'i.

Ms. Anderson: Second.

Chair Mahoney: It's been moved and seconded. Any further discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) The motion carries 6:0 to close the hearing.

Mr. Abrams: Mr. Chair, I make a motion to approve the Planning Department, County of Kaua'i's Zoning Amendment ZA-2016-1.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Opposed? (None) Motion carries 6:0.

ANNOUNCEMENTS

Topics for Future Meetings

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i 96766 on Tuesday, January 26, 2016.

Mr. Hull: That is the end of the agenda, Commissioner. We have Topics for Future Meetings. Oh, excuse me that was the end of the New Business section of the agenda. Concerning Announcements, you folks are in receipt of the report for upcoming Class IV Zoning Permits. If there are any questions concerning those?

EXECUTIVE SESSION

Pursuant to Hawai'i Revised Statutes Sections 92-5(a)(2 and 4), the purpose of this executive session is to discuss matters pertaining to the evaluation of the Planning Director over the past and current fiscal year and to discuss upcoming fiscal year goals. This session pertains to the Planning Director's evaluation where consideration of matters affecting privacy will be involved. Further, to consult with legal counsel regarding powers, duties, privileges and/or liabilities of the Planning Commission as it relates to the evaluation of the Planning Director.

Chair Mahoney: We are going to move into Executive Session.

Ms. Higuchi-Sayegusa: I'll read the agenda item. We're on I., Executive Session. I.1., pursuant to Hawai'i Revised Statutes Sections 92-5(a)(2 and 4), the purpose of this executive session is to discuss matters pertaining to the evaluation of the Planning Director over the past and current fiscal year and to discuss upcoming fiscal year goals. This session pertains to the Planning Director's

evaluation where consideration of matters affecting privacy will be involved. Further, to consult with legal counsel regarding powers, duties, privileges and/or liabilities of the Planning Commission as it relates to the evaluation of the Planning Director.
I suggest that we vote to move into Executive Session.

Mr. Hull: The Department would also recommend that if any motion to move into Executive Session also be accompanied by an adjournment being that it's the last agenda item, and we can excuse B.C. from having to come back and record.

Chair Mahoney: Before we move into adjournment, can we give Commissioner Anderson the floor?

Ms. Anderson: Thank you, Chair. I did ask for a point of personal privilege to just express my gratitude to the Commission, the Director, and the Planning Department Staff for the time that I've been able to serve as a Commissioner, as Chair. It's truly been a great experience, and I've enjoyed working with each of you. I'm thankful for the opportunity to be able to have been a voice for the community, to have been able to bear witness to the concerns, and I encourage you all to continue on, and I leave the Commission knowing that it is in good hands. So thank you for that. Aloha.

Chair Mahoney: Thank you. Okay, I guess motion to adjourn?

Mr. Abrams: Do we adjourn before we go...

Ms. Higuchi-Sayegusa: Move into Executive Session, and then once that's finished, to adjourn.

Chair Mahoney: Okay. So we move in to Executive Session.

Mr. Abrams: I'll make a motion to go into Executive Session.

Ms. Higuchi-Sayegusa: Simultaneous with adjourn.

Mr. Abrams: Simultaneously with adjourn, or just shortly thereafter.

Mr. Keawe: Second.

Chair Mahoney: It's been moved and seconded. Any discussion? Hearing none. All in favor? (Unanimous voice vote) Motion carries 6:0.

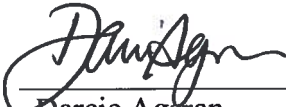
The Commission recessed this portion of the meeting at 11:53 a.m.

The meeting resumed in Executive Session at 12:37 p.m.

ADJOURNMENT

Chair Mahoney adjourned the meeting at 1:25 p.m.

Respectfully submitted by:



Darcie Agaran,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.